

## REMARKS

Added Claim 20 finds support in the specification in page 12 line 21.

Claims 9 and 10 stand rejected under 35 U.S.C. 112 second paragraph as being indefinite, the Examiner perceiving an inconsistency in the recited phrasing.

Claim 9 recites a vinyl(co)polymer that is composed of

50-99 wt% of a member selected from a first group, the group including methacrylic acid (C<sub>1</sub> –C<sub>8</sub>) alkylates , and

1-50 wt.% of a member selected from a second group, the group including (meth)acrylic acid (C<sub>1</sub> –C<sub>8</sub>) alkylates.

The recited term “vinyl(co)polymer” includes “vinyl polymer” and “vinyl copolymer”. See in this connection the specification (page 12 line 21) that refers to “Suitable as vinyl(co)polymers are polymers of at least one monomer from the group of aromatic vinyls, vinyl cyanides, methacrylic acid (C<sub>1</sub> -C<sub>8</sub>)-alkylates, unsaturated carboxylic acids and derivatives (such as anhydrides and imides) of unsaturated carboxylic acids. Suitable in particular are (co)polymers of ...” (emphases added).

The disclosure and the claim at issue leave no doubt as to the scope of claimed component (C); both homopolymers and copolymers are included.

Referring to the Examiner’s assertion, a homopolymer of methylmethacrylate is within the scope of the claim since it is composed of 50 wt % of methylmethacrylate of the first group and 50 wt % of methylmethacrylate of the second group, together making up a homopolymer of methylmethacrylate.

Presently added Claim 20 is believed to remove any possible ambiguity in this connection.

Referring to the next assertion, a copolymer of 75% methylmethacrylate and 25% butylmethacrylate is within the scope of the claim: The “methylmethacrylate” is “methacrylic acid C<sub>1</sub>-alkylate” of the first group and the butylmethacrylate is “methacrylic acid C<sub>4</sub>-alkylate” of the second group.

While failing to appreciate the Examiner speculation as to their beliefs Applicants note that the above interpretation of the claim is consistent with the assertion that “ All Markush members of the Markush groups must sum up to 50-99% and 1-50% respectively”.

Applicants are compelled to address the Examiner's statement relating to a hypothetical competitor that might wish to use a copolymer of 75% methylmethacrylate and 25% butylmethacrylate. This competitor's practice is unquestionably within the scope of the protection as the copolymer is of 75% methylmethacrylate – a member of the first group, and 25% butylmethacrylate, a member of the second group. Any other construction of the claim is plainly erroneous.

The explanation set forth above is applicable to the interpretation of Claim 10.

Reconsideration and withdrawal of the rejection of Claims 9 and 10 are requested.

Claims 3,4,6-11 and 13-19 stand rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative under 35 U.S.C. 103(a) as obvious over Kurata (U.S. Patent 6,262,173).

Kurata disclosed a composition resistant to heat aging comprising (I) rubber-modified thermoplastic resin obtained by graft polymerizing of a presently relevant aromatic vinyl compound and or vinyl cyanide compound in the presence of a rubber-like polymer; (II) a copolymer of monomers such as aromatic vinyl compound, vinyl cyanide and (III) polycarbonate resin and exemplified such compositions that further contain certain phosphorous compounds.

As presently amended the claimed composition entails a phosphorous compound that is not described by Kurata's heat aging additives (component IV of the reference). The rejection under section 102(e) is believed addressed by the amendment.

Nothing in Kurata describes or suggests the claimed compositions that now requires the impact modifier to be a product of emulsion polymerization that is redox initiated nor is there anything in the document to describe or suggest the presently recited phosphorous compound. The rejection alleging obviousness in view of Kurata is believed addressed and overcome by the present amendment.

Claims 3,4,6-11 and 13-19 stand rejected under 35 U.S.C. 103(a) as unpatentable over Kurata (U.S. Patent 6,262,173) in view of Wittman et al (U.S. patent 4,937,285).

The shortcomings of Kurata in the present context were noted above.

Wittman disclosed a thermoplastic composition resistant to petroleum containing a graft polymer, polycarbonate and conventional additives. Nothing is disclosed in Wittman relative to the presently claimed phosphorous compound.

Wittman is not seen to augment the Kurata disclosure in a manner sufficient to deny patentability to the claims at issue.

Reconsideration and withdrawal of the rejection based on Kurata in view of Wittman are requested.

Claims 3,4,6-11 and 13-19 stand rejected under 35 U.S.C. 103(a) as obvious over Eckel (U.S. Patent 5,126,404) in view of Gosens (U.S. Patent 5,204,394).

Eckel disclosed a composition containing polycarbonate based on a substituted dihydroxydiphenyl cycloalkane.

Gosens disclosed a presently relevant phosphorous compound as a flame retardant in polymer mixtures that contain polycarbonate and styrene-containing copolymer and/or styrene-containing graft polymer.

As presently amended this species of polycarbonate is excluded from the scope of the protection.

The combined disclosures of Eckel and Gosens fall short of describing the invention as presently claimed.

Claims 3,4,6-11, 13 and 14 stand rejected under 35 U.S.C. 103(a) as unpatentable over Eckel (U.S. Patent 4,985,493) or Grigo ((U.S. Patent 5,100,960) in view of Gosens (U.S. Patent 5,204,394).

The present amendment to Claims 14 and 17 include the introduction of the limitation recited in Claims 15 and 18 respectively. As amended the claims are believed to address and overcome the stated rejection.

Believing the above represent a complete response to the Office Action and that the application is in condition for allowance, Applicants request the earliest issuance of an indication to this effect.

Respectfully submitted,

By



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